

By: Woolley

H.B. No. 2328

A BILL TO BE ENTITLED

AN ACT

relating to the offenses of cruelty to livestock and nonlivestock animals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 42.09, Penal Code, is amended to read as follows:

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

(1) tortures a livestock ~~[an]~~ animal;

(2) fails unreasonably to provide necessary food, water, care, or shelter for a livestock ~~[an]~~ animal in the person's custody;

(3) abandons unreasonably a livestock ~~[an]~~ animal in the person's custody;

(4) transports or confines a livestock ~~[an]~~ animal in a cruel manner;

(5) kills, seriously injures, or administers poison to a livestock ~~[an]~~ animal ~~[, other than cattle, horses, sheep, swine, or goats,]~~ belonging to another without legal authority or the owner's effective consent;

(6) ~~[causes one animal to fight with another,]~~

~~[(7)]~~ uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;

(7) ~~[(8)]~~ trips a horse;

1 (8) [~~(9)~~] injures a livestock [~~an~~] animal[, ~~other than~~
2 ~~cattle, horses, sheep, swine, or goats,~~] belonging to another
3 without legal authority or the owner's effective consent; or

4 (9) [~~(10)~~] seriously overworks a livestock [~~an~~]
5 animal.

6 (b) In [~~It is a defense to prosecution under this section~~
7 ~~that the actor was engaged in bona fide experimentation for~~
8 ~~scientific research.~~

9 [~~(c) For purposes of~~] this section:

10 (1) "Abandon" includes abandoning a livestock [~~an~~]
11 animal in the person's custody without making reasonable
12 arrangements for assumption of custody by another person.

13 (2) [~~"Animal" means a domesticated living creature and~~
14 ~~wild living creature previously captured. "Animal" does not include~~
15 ~~an uncaptured wild creature or a wild creature whose capture was~~
16 ~~accomplished by conduct at issue under this section.~~

17 [~~(3)~~] "Cruel manner" includes a manner that causes or
18 permits unjustified or unwarranted pain or suffering.

19 (3) [~~(4)~~] "Custody" includes responsibility for the
20 health, safety, and welfare of a livestock [~~an~~] animal subject to
21 the person's care and control, regardless of ownership of the
22 livestock animal.

23 (4) "Livestock animal" means:

24 (A) cattle, sheep, swine, goats, or fowl commonly
25 raised for human consumption; or

26 (B) a horse, pony, mule, donkey, or hinny.

27 (5) "Necessary food, water, care, or shelter" includes

1 food, water, care, or shelter provided to the extent required to
2 maintain the livestock animal in a state of good health.

3 (6) "Trip" means to use an object to cause a horse to
4 fall or lose its balance.

5 (c) [~~(d)~~] An offense under Subsection (a)(2), (3), (4),
6 (8), or (9) [~~, or (10)~~] is a Class A misdemeanor, except that the
7 offense is a state jail felony if the person has previously been
8 convicted two times under this section, two times under Section
9 42.092, or one time under this section and one time under Section
10 42.092. An offense under Subsection (a)(1), (5), (6), or (7) is a
11 state jail felony, except that the offense is a felony of the third
12 degree if the person has previously been convicted two times under
13 this section, two times under Section 42.092, or one time under this
14 section and one time under Section 42.092.

15 (d) [~~(e)~~] ~~It is a defense to prosecution under Subsection~~
16 ~~(a)(5) that the animal was discovered on the person's property in~~
17 ~~the act of or immediately after injuring or killing the person's~~
18 ~~goats, sheep, cattle, horses, swine, or poultry and that the person~~
19 ~~killed or injured the animal at the time of this discovery.~~

20 [(~~f~~)] It is a defense to prosecution under Subsection (a)(7)
21 [(~~a~~)(8)] that the actor tripped the horse for the purpose of
22 identifying the ownership of the horse or giving veterinary care to
23 the horse.

24 (e) [~~(g)~~] It is a defense to prosecution for an offense
25 under this section that the actor was engaged in bona fide
26 experimentation for scientific research [~~the person had a~~
27 ~~reasonable fear of bodily injury to the person or to another by a~~

1 ~~dangerous wild animal as defined by Section 822.101, Health and~~
2 ~~Safety Code].~~

3 (f) [~~(h)~~] It is an exception to the application of this
4 section that the conduct engaged in by the actor is a generally
5 accepted and otherwise lawful:

6 (1) use of a livestock [~~an~~] animal if that use occurs
7 solely for the purpose of:

8 (A) fishing, hunting, or trapping; or

9 (B) wildlife control as regulated by state and
10 federal law; or

11 (2) animal husbandry or farming practice involving
12 livestock.

13 [~~(i) An offense under Subsection (a)(1), (5), (6), (7), or~~
14 ~~(8) is a state jail felony, except that the offense is a felony of~~
15 ~~the third degree if the person has previously been convicted two~~
16 ~~times under this section.]~~

17 SECTION 2. Chapter 42, Penal Code, is amended by adding
18 Section 42.092 to read as follows:

19 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this
20 section:

21 (1) "Abandon" includes abandoning an animal in the
22 person's custody without making reasonable arrangements for
23 assumption of custody by another person.

24 (2) "Animal" means a nonhuman mammal, bird, or captive
25 amphibian or reptile that is not a livestock animal.

26 (3) "Cruel manner" includes a manner that causes or
27 permits unjustified or unwarranted pain or suffering.

1 (4) "Custody" includes responsibility for the health,
2 safety, and welfare of an animal subject to the person's care and
3 control, regardless of ownership of the animal.

4 (5) "Livestock animal" has the meaning assigned by
5 Section 42.09.

6 (6) "Necessary food, water, care, or shelter" includes
7 food, water, care, or shelter provided to the extent required to
8 maintain the animal in a state of good health.

9 (b) A person commits an offense if the person intentionally,
10 knowingly, or recklessly:

11 (1) tortures an animal or in a cruel manner kills or
12 causes serious bodily injury to an animal;

13 (2) kills or causes serious bodily injury to an animal
14 without legal authority or the owner's effective consent;

15 (3) fails unreasonably to provide necessary food,
16 water, care, or shelter for an animal in the person's custody;

17 (4) abandons unreasonably an animal in the person's
18 custody;

19 (5) transports or confines an animal in a cruel
20 manner;

21 (6) without legal authority or the owner's effective
22 consent, causes bodily injury, other than serious bodily injury, to
23 an animal or administers poison to an animal;

24 (7) causes one animal that is not a dog to fight with
25 another animal that is not a dog;

26 (8) uses a live animal as a lure in dog race training
27 or in dog coursing on a racetrack; or

1 (9) seriously overworks an animal.

2 (c) An offense under Subsection (b)(3), (4), (5), or (9) is
3 a Class A misdemeanor, except that the offense is a state jail
4 felony if the person has previously been convicted two times under
5 this section, two times under Section 42.09, or one time under this
6 section and one time under Section 42.09. An offense under
7 Subsection (b)(1), (2), (6), (7), or (8) is a state jail felony,
8 except that the offense is a felony of the third degree if the
9 person has previously been convicted two times under this section,
10 two times under Section 42.09, or one time under this section and
11 one time under Section 42.09.

12 (d) It is a defense to prosecution under this section that:

13 (1) the actor had a reasonable fear of bodily injury to
14 the actor or to another person by a dangerous wild animal as defined
15 by Section 822.101, Health and Safety Code;

16 (2) the actor was engaged in bona fide experimentation
17 for scientific research; or

18 (3) the conduct engaged in by the actor is a generally
19 accepted and otherwise lawful:

20 (A) use of an animal if that use occurs solely for
21 the purpose of:

22 (i) fishing, hunting, or trapping; or

23 (ii) wildlife control as regulated by state
24 and federal law; or

25 (B) animal husbandry or farming practice
26 involving livestock animals.

27 (e) It is a defense to prosecution under Subsection (b)(2)

1 or (6) that the animal was discovered on the person's property in
2 the act of or immediately after injuring or killing the person's
3 livestock animals and that the person killed or injured the animal
4 at the time of this discovery.

5 SECTION 3. Section 54.0407, Family Code, is amended to read
6 as follows:

7 Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If
8 a child is found to have engaged in delinquent conduct constituting
9 an offense under Section 42.09 or 42.092, Penal Code, the juvenile
10 court shall order the child to participate in psychological
11 counseling for a period to be determined by the court.

12 SECTION 4. Sections 821.023(a) and (b), Health and Safety
13 Code, are amended to read as follows:

14 (a) A finding in a court of competent jurisdiction that the
15 owner of an animal is guilty of an offense under Section 42.09 or
16 42.092, Penal Code, involving the animal is prima facie evidence at
17 a hearing authorized by Section 821.022 that the animal has been
18 cruelly treated.

19 (b) A statement of an owner made at a hearing provided for
20 under this subchapter is not admissible in a trial of the owner for
21 an offense under Section 42.09 or 42.092, Penal Code.

22 SECTION 5. Section 801.3585, Occupations Code, is amended
23 to read as follows:

24 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;
25 IMMUNITY. A veterinarian who in good faith and in the normal course
26 of business reports to the appropriate governmental entity a
27 suspected incident of animal cruelty under Section 42.09 or 42.092,

1 Penal Code, is immune from liability in a civil or criminal action
2 brought against the veterinarian for reporting the incident.

3 SECTION 6. Section 1702.283, Occupations Code, is amended
4 to read as follows:

5 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
6 convicted of cruelty to animals under Section 42.09 or 42.092,
7 Penal Code:

8 (1) is ineligible for a license as a guard dog company
9 or for registration as a dog trainer; and

10 (2) may not be employed to work with dogs as a security
11 officer by a security services contractor or security department of
12 a private business that uses dogs to protect individuals or
13 property or to conduct investigations.

14 SECTION 7. The change in law made by this Act applies only
15 to an offense committed on or after the effective date of this Act.
16 An offense committed before the effective date of this Act is
17 governed by the law in effect when the offense was committed, and
18 the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before the
20 effective date of this Act if any element of the offense was
21 committed before that date.

22 SECTION 8. This Act takes effect September 1, 2007.